

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 40

Filed by: Interference Trial Division Merits Panel
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Filed: September 30, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

ROBERT M. HUDZIAK, H. MICHAEL SHEPARD, AXEL ULLRICH and
BRIAN M. FENDLY

Junior Party

(Application Nos. 10/174,806 and 09/343,310 and Patent Nos. 5,720,937; 5,725,856;
5,720,954; 5,677,171; 5,770,195; 5,772,997; 6,165,464; 6,399,063; 6,387,371;
real party-in-interest **Genentech, Inc.**),

v.

DAVID B. RING,

Senior Party

(Application Nos. 08/477,512 and 08/486,817;
real party-in-interest **Chiron, Corp.**).

Patent Interference No. 105,266 (RES)

Before: SCHAFER, MEDLEY and TIERNEY, Administrative Patent Judges.

Judgment - Bd.R. 127

Pursuant to the decision on priority (Paper 39), it is

ORDERED that judgment as to the subject matter of Count 1 (Paper 1, p. 16) is awarded
against both parties;

FURTHER ORDERED that junior party, Genentech, Inc. (real party-in-interest of named
inventors ROBERT M. HUDZIAK, H. MICHAEL SHEPARD, AXEL ULLRICH and BRIAN M.
FENDLY) is not entitled to a patent containing Claims 1, 40 and 41 of Application 10/174,806;
Claims 40-48 of Application 09/343,310; Claims 1-5, 7 and 9 of Patent 5,720,937; Claims 1-12 and
14-26 of Patent 5,725,856; Claims 1-21 and 23-35 of Patent 5,720,954; Claims 1-15 and 17-18 of
Patent 6,399,063; Claims 1-14 of Patent 6,387,371; Claims 1-6, 8-22, 24, 26 and 28-39 of Patent

5,677,171; Claims 1-28 and 31-36 of Patent 5,770,195; Claims 1-13 of Patent 5,772,997; and Claims 1-11 of Patent 6,165,464;

FURTHER ORDERED that senior party, Chiron Corp. (real party-in-interest of named inventors DAVID B. RING) is not entitled to a patent containing Claims 88-115 of Application 08/486,817 or Claims 88-108 and 130-150 of Application 08/477,512;

FURTHER ORDERED that a copy of this judgment be made of record in the files of Applications 09/343,310; 10/174,806; 08/477,512 and 08/486,817 and Patents 5,720,937; 5,725,856; 5,720,954; 5,677,171; 5,770,195; 5,772,997; 6,165,464; 6,399,063; and 6,387,371;

FURTHER ORDERED that if there is any settlement agreement which has not been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 41.205.

/Richard E. Schafer/
ADMINISTRATIVE PATENT JUDGE

/Sally C. Medley/
ADMINISTRATIVE PATENT JUDGE

/Michael P. Tierney/
ADMINISTRATIVE PATENT JUDGE

BOARD OF PATENT
APPEALS AND
INTERFERENCES

cc: (via facsimile and overnight mail)

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